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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
SIXTH APPELLATE DISTRICT

THE PEOPLE,

Plaintiff and Respondent,

v.

MARGARITO GUZMAN,

Defendant and Appellant.

H042607

(Monterey County

Super. Ct. No. SS143113A)

A jury found defendant Margarito Guzman guilty of inflicting corporal injury on a spouse. (Pen. Code, § 273.5, subd. (a).)<sup>1</sup> The jury also found that he personally inflicted great bodily injury on the victim. (§ 12022.7, subd. (e).) The trial court imposed a total term of seven years in state prison.

On appeal, Guzman contends his trial counsel provided ineffective assistance of counsel by failing to object to testimony from the prosecution's domestic violence expert. We conclude Guzman did not suffer ineffective assistance of counsel. Accordingly, we will affirm the judgment.

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<sup>1</sup> Subsequent undesignated statutory references are to the Penal Code.

## **I. FACTUAL AND PROCEDURAL BACKGROUND**

### *A. Facts of the Offense*

#### *1. Infliction of Corporal Injury*

On December 19, 2014, Guzman and Jane Doe, his wife of 18 months, were staying in an apartment in Salinas with three other people. They had been drinking alcohol for ten days and using methamphetamine for three days. Doe did not know the other people in the apartment. They were all homeless at the time.

Around midnight, Guzman and Doe got into an argument while sitting on a couch in the living room. Guzman called Doe “a dumb drunken bitch,” whereupon Doe struck Guzman in the face with her fist. Guzman complained about Doe to the other apartment-dwellers, and they went back to drinking peacefully. About 20 minutes later, Guzman and Doe began arguing again. Doe tried to get up to leave three times, but Guzman pushed her back down each time. After the third time, Doe told Guzman she wanted to leave, and he responded, “Fine. Leave.” Doe then grabbed her purse and started walking out the door. At that point, Guzman grabbed her from behind, punched her in the face, and knocked her to the ground. When he hit her, Doe felt her whole face “shatter.” She lost consciousness for some time. Doe bit Guzman in the thumb at some point in the altercation, but she could not recall precisely when. When she regained consciousness, she found herself lying on the ground in a pool of blood. Guzman was gone.

The emergency room physician who treated Doe testified that she had suffered a nasal bone fracture and a “blow-out fracture” of the lower orbit bone under her right eye. The fracture to the orbit bone caused bleeding into the right sinus cavity. Doe’s arms had bruises that appeared to be defensive wounds. Based on the fact that the injuries to Doe’s face occurred in two different areas, the physician opined that they were not likely to be the result of a fall. The injuries were consistent with an assault.

## *2. Doe's Prior Relationship With Guzman*

Doe testified that this incident was not the first time Guzman had struck her. They had been physically abusive to each other for much of the relationship. Doe estimated that she had sustained injuries from Guzman's attacks on approximately 20 different occasions. She frequently woke up with injuries such as a black eye after blacking out from alcohol use. Guzman would tell her that he had punched her because she was "a dumb drunken bitch." Guzman had strangled her to the point of unconsciousness on two occasions—once with his hands, and once with a telephone cord. He also threatened to kill her by strangling her, draining the blood from her body, and cutting her up to bury her.

Doe had physically attacked Guzman on multiple occasions. She had hurt him seriously enough to cause visible injuries. She once stabbed him in the arm and ear with a piece of broken glass. She testified, however, that she had loved Guzman throughout their relationship, and she still loved him at the time of trial. She did not leave him or try to get help because she believed he loved her too and she thought he would change. She was not frightened by his threats to kill her because she did not want to live any longer. She suffered from PTSD due to the suicide of her previous husband, which contributed to her drinking and drug use.

Doe testified that she was not happy about testifying at trial. She was ashamed and embarrassed, and she wanted it to end. She had written letters to Guzman while waiting for trial because she missed him and still loved him.

## *3. Expert Testimony*

Deborah Jacroux, a licensed marriage and family therapist, testified for the prosecution about the nature of domestic violence and abuse. She described the typical "cycle of violence" in an abusive relationship. The cycle starts with a "honeymoon period" in which the abuser tells the partner that he or she is loved and the partner is treated well. The relationship then proceeds to the "tension-building" phase, in which the

partner begins to feel he or she is “walking on egg shells” and that something bad is about to happen. The third phase is the “explosion phase” in which the abuser commits acts of violence against the partner. This cycle then repeats itself as the relationship returns to the honeymoon phase.

Jacroux also testified that couples may engage in “trauma bonding.” This occurs when both persons have suffered past trauma or violence, causing them to become confused about the distinction between loving and violent experiences. This results in a love-hate dynamic in the present relationship.

Jacroux opined that the use of drugs and alcohol may result in a higher frequency of violence in abusive relationships. Many of Jacroux’s clients from abusive relationships had also been homeless at the time. Homeless women tend to lack access to resources and cannot get the appropriate counseling. This sometimes causes the victim in an abusive relationship to stay with the abuser rather than seeking help or support from others.

Jacroux testified that victims of abuse suffer from low self-esteem, self-shame, and embarrassment. This causes them to doubt their own decision-making abilities and they lose trust in their own thoughts. They may feel guilty or believe the abuse is their own fault. They frequently choose not to report the abuse they are suffering, or they may lie about it when questioned by law enforcement. They may stay in a relationship even after they’ve been severely injured, and they may continue to have feelings of love or attachment towards their abusers.

On cross-examination, Jacroux testified that she had never met Doe or Guzman, and she knew nothing about their relationship.

#### *B. Procedural Background*

The prosecution charged Guzman by information with one count of inflicting corporal injury on a spouse. (§ 273.5, subd. (a).) The information alleged Guzman

personally inflicted great bodily injury upon Doe in the commission of the offense.  
(§ 12022.7, subd. (e).)

The case proceeded to trial in March 2015. The jury found Guzman guilty as charged and found true the great bodily injury enhancement. The trial court denied probation and imposed a total term of seven years, composed of the middle term of three years on the substantive count plus four years for the enhancement.

## **II. DISCUSSION**

Guzman contends his trial counsel was ineffective by failing to object to Jacroux's expert testimony. He argues that her testimony was irrelevant and unduly prejudicial under Evidence Code section 352. He also claims Jacroux was unqualified because she had no experience with abusive relationships in which the wife was also violent towards the husband. The Attorney General responds that Jacroux's testimony was probative and admissible, and that she was qualified to give it. We conclude Guzman did not suffer ineffective assistance of counsel.

### *A. Procedural Background*

The prosecution moved in limine for the admission of expert testimony on the subject of domestic violence. The prosecution argued that such testimony was "necessary to disabuse jurors of commonly held misconceptions about victims of domestic violence." At a hearing on the matter, the trial court stated it was inclined to admit the testimony, and the court solicited argument from defense counsel. Counsel lodged no objection and made no argument. Accordingly, the trial court admitted Jacroux's testimony.

At trial, the court instructed the jury with CALCRIM No. 332, the pattern jury instruction concerning expert testimony. As to Jacroux specifically, the court instructed the jury as follows: "You have heard testimony from Deborah Jacroux regarding the effect of domestic violence. Deborah Jacroux's testimony about domestic violence is not evidence that the defendant committed any of the crimes charged against him. You may

consider this evidence only in deciding whether or not Jane Doe's conduct was not inconsistent with the conduct of someone who has been abused and in evaluating the believability of her testimony.”

### B. *Legal Principles*

Evidence Code section 801 limits expert opinion testimony to that which is “[r]elated to a subject that is sufficiently beyond common experience that the opinion of an expert would assist the trier of fact[.]” (Evid. Code, § 801, subd. (a).) Evidence Code section 1107 specifically addresses expert testimony on intimate partner battering: “In a criminal action, expert testimony is admissible by either the prosecution or the defense regarding intimate partner battering and its effects, including the nature and effect of physical, emotional, or mental abuse on the beliefs, perceptions, or behavior of victims of domestic violence, except when offered against a criminal defendant to prove the occurrence of the act or acts of abuse which form the basis of the criminal charge.” (Evid. Code, § 1107, subd. (a).) Subdivision (b) of that section further provides, in part: “The foundation shall be sufficient for admission of this expert testimony if the proponent of the evidence establishes its relevancy and the proper qualifications of the expert witness.”

A trial court's admission of expert testimony should not be reversed “absent a clear showing of an abuse of discretion.” (*People v. Johnson* (1993) 19 Cal.App.4th 778, 790.) Similarly, “[t]he qualification of expert witnesses, including foundational requirements, rests in the sound discretion of the trial court. [Citations.] That discretion is necessarily broad: ‘The competency of an expert “is in every case a relative one, i.e. relative to the topic about which the person is asked to make his statement.” [Citation.]’ [Citation.] Absent a manifest abuse, the court's determination will not be disturbed on appeal.” (*People v. Ramos* (1997) 15 Cal.4th 1133, 1175 (*Ramos*).)

“The court in its discretion may exclude evidence if its probative value is substantially outweighed by the probability that its admission will (a) necessitate undue

consumption of time or (b) create substantial danger of undue prejudice, of confusing the issues, or of misleading the jury.” (Evid. Code, § 352.) A trial court has broad discretion in determining whether to admit or exclude evidence under this section. (*Ramos, supra*, 15 Cal.4th at p. 1170.) Rulings under Evidence Code section 352 will not be overturned absent an abuse of that discretion. (*People v. Minifie* (1996) 13 Cal.4th 1055, 1070.)

To demonstrate ineffective assistance of counsel, Guzman must first show trial counsel’s performance was deficient because it fell below an objective standard of reasonableness under prevailing professional norms. (*Strickland v. Washington* (1984) 466 U.S. 668, 687-688 (*Strickland*).) Second, he must show prejudice flowing from counsel’s performance or lack thereof. (*Id.* at pp. 691-692.) “Prejudice exists where there is a reasonable probability that, but for counsel’s errors, the result of the proceeding would have been different.” (*People v. Benavides* (2005) 35 Cal.4th 69, 92-93, citing *Strickland, supra*, 466 U.S. at pp. 687-688, 693-694.) “On direct appeal, a conviction will be reversed for ineffective assistance only if (1) the record affirmatively discloses counsel had no rational tactical purpose for the challenged act or omission, (2) counsel was asked for a reason and failed to provide one, or (3) there simply could be no satisfactory explanation.” (*People v. Mai* (2013) 57 Cal.4th 986, 1009.) It is the defendant’s burden on appeal to show by a preponderance of the evidence that he was denied effective assistance of counsel and is entitled to relief. (*People v. Dowdell* (2014) 227 Cal.App.4th 1388.)

### C. *Guzman Did Not Suffer Ineffective Assistance of Counsel*

Guzman claims trial counsel should have objected to Jacroux’s testimony because it was irrelevant, without probative value, and unduly prejudicial under Evidence Code sections 1107 and 352. We conclude the testimony was relevant and probative. As stated above, the testimony was admitted for the limited purpose of assisting the jury in evaluating Doe’s credibility and deciding whether her conduct was not inconsistent with the conduct of someone who has been abused. The credibility of her testimony was an

issue because Guzman challenged the accuracy and believability of her account of the attack. In closing argument, defense counsel characterized Doe's testimony as inconsistent and "fuzzy." Counsel put forth an alternative explanation for Doe's injuries that involved her falling on a shopping cart sitting in the living room.

Jacroux's testimony was relevant and probative to Doe's credibility because it explained why an abused partner might continue to stay with Guzman and decline to seek outside help despite their history of abuse. Doe admitted that both she and Guzman had a months-long history of physically assaulting each other. At the same time, she admitted she still loved him, and she had voluntarily remained in the relationship with him up to the time of the offense. Some jurors might have wondered why Doe did not leave Guzman before and hence whether she was telling the truth about the instant attack. Jacroux's testimony, by explaining how abuse victims become psychologically trapped in such relationships, provided the jury with a possible explanation for why Doe might have behaved in such a manner. (See *People v. Humphrey* (1996) 13 Cal.4th 1073, 1087 [expert testimony assisted jury by dispelling commonly held misconceptions about battered women].) Doe also testified that she was ashamed and embarrassed by having to testify at trial concerning the incident. Jacroux's testimony, by explaining why abuse victims feel shame and embarrassment, provided a credible reason for Doe's reluctance to report the abuse to the police on some earlier occasion.

Furthermore, Jacroux's testimony was not prejudicial in any material fashion. It did not require an undue consumption of time, and it did not create any potential for confusing the issues or misleading the jury. Guzman argues that the testimony was prejudicial because it "assumed all victims of abuse were truthful despite their questionable or strange behavior" and was "manifestly biased in favor of female victims of battery . . . ." We find no support for these claims in the record. Guzman further claims the testimony was prejudicial because it "covered aspects of domestic violence relationships inapplicable to the instant case . . . ." Guzman points to no authority for the



proposition that every aspect of an expert's testimony must correspond precisely to the facts of the instant case. And while some of Jacroux's testimony discussed characteristics of spousal abuse not reflected in Doe's relationship to Guzman, he does not explain how this could have resulted in prejudice. Defense counsel was free to point out those aspects of Jacroux's testimony that did not apply to Doe and Guzman. Indeed, counsel did so in closing argument, arguing that Jacroux's testimony revealed "nothing that's directly relevant to the facts in this specific relationship and the evidence at issue in this particular case." Moreover, the trial court properly instructed the jury not to consider Jacroux's testimony as evidence of whether Guzman committed the offense. And the jury was instructed that it was not required to accept the expert's opinions as true or correct. Absent some evidence to the contrary, we assume the jury properly followed the trial court's instructions.

Guzman also argues that Jacroux was not qualified to testify in this case because the relationships she had encountered in her experience concerned cases in which only one partner was battered, whereas Doe had her own history of physical abuse against Guzman. When Jacroux was asked whether she had experience with cases in which the victim also attacked the abuser, she testified that "[o]ut of the majority of females that I have seen, that's not been the case . . . ." But she added that had known three clients who "after a period of time fought back," whom she characterized as "victim defendant[s]." Guzman does not present any authority to support his claim that Jacroux was thereby unqualified to testify as an expert in this case. Jacroux had been practicing as a marriage and family therapist for six years, and she had seen approximately 3,000 to 5,000 clients in domestic violence cases. She set forth her training and expertise in detail, and she had been qualified as an expert witness on domestic violence in 10 to 13 prior cases. We conclude the trial court did not abuse its discretion in allowing her to testify as an expert.

For the reasons above, Jacroux's testimony was properly admitted. Even if defense counsel had objected to it, the trial court would have properly overruled the

objection. Accordingly, counsel did not provide deficient performance by declining to object. (*People v. Anderson* (2001) 25 Cal.4th 543, 587 [defense counsel does not provide ineffective assistance of counsel by declining to lodge a futile objection].) Guzman also has not shown how he was prejudiced under *Strickland*. The prosecution presented abundant evidence of Guzman's guilt, and it is not reasonably likely the jury would have reached a more favorable outcome in the absence of Jacroux's testimony. We conclude Guzman's claim is without merit.

### **III. DISPOSITION**

The judgment is affirmed.

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WALSH, J.\*

WE CONCUR:

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RUSHING, P.J.

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GROVER, J.

***People v. Guzman***  
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\* Judge of the Santa Clara County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.